THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 19782 of 2005

DATED: 08-09-2005.

Between:

Nallam Venkateswara Rao, S/o.Chalapathi Rao,
R/o. Gollaprolu Village (PO) and Mandal, East Godavari District.

..... PETITIONER

AND

1 The Eastern Power Distribution Company Ltd.,

Rep by its , The Chairman cum Managing Director,
Corporate Office, Daba Gardens, Visakhapatnam, (PO) & District.

2 The Asst.Divisional Engineer,

Operation Sub-Division, Pithapuram (PO),

APEPDCL, E.G.district.

3 The Divisional Engineer , Operation, APEPDCL,

Near P.R.College Grounds, Kakinada (PO),
E.G.district.

.....RESPONDENTS

Counsel for the Petitioner:MR.P.NARASIMHA RAO

Counsel for the Respondent No.: MR.V.AJAYAKUMAR

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 19782 of 2005

ORDER:

This writ petition is filed seeking to declare the provisional notice issued by the 2nd respondent herein, vide his letter No.ADE/O/PTP/Sub-Engg/F.Doc./D.No.793/05, dt.29-08-2005 for an assessment of Rs.2,39,578-00 for period of one year at three

times the rate of the tariff applicable to Industrial category-III on the allegation of pilferage of energy due to tampering of electrical meter seals of electricity service connection No.2117 of Gollaprolu Village, East Godavri district as illegal and arbitrary.

Heard both the counsel. Learned counsel for the petitioner and Sri M. Sreeramulu Reddy, the learned standing counsel for the respondents agree that the subject matter of this writ petition is covered by a Division Bench judgment of this Court in Writ Appeal Nos.452 and 477 of 2004 dated 11-03-2004 wherein the Division Bench held that the authorities did not have power to forthwith stop or disconnect electricity while issuing provisional assessment. It was further held that provisional assessment was in the nature of a show cause notice against which the consumer was entitled to have an opportunity of hearing before final orders was passed by the concerned authority and that the notice would be deemed to have been issued only under Section 126 of the Electricity Act under which there was no authority or power to the respondents to discontinue or disconnect electricity supply or call upon the petitioner to pay even part of the provisional assessment amount till final assessment was made. It was further held that only on the consumers not complying with the final assessment, the respondents could proceed further in the matter, which would also be subject to appeals, if any, to be filed by the consumers.

In that view of the matter, unless the final assessment is made, it is unreasonable for the respondents to direct the petitioner to deposit half of the provisional estimated amount. Therefore, the order of the 2nd respondent in so far as directing the petitioner to pay half of the estimated amount cannot be allowed to stand.

Accordingly, the writ petition is disposed of directing the 2nd respondent to pass appropriate final orders after giving reasonable opportunity to the petitioner. No order as to costs.

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K.C.BHANU, J.

Dated: 08-09-2005.

Note: Issue C.C.by wire

At party’s costs.

B/o

RNS